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1971

Book Review. The Organization of African Unity and Its Charter by Zdenek Cervenka

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Recommended Citation

Fatouros, A. A., "Book Review. The Organization of African Unity and Its Charter by Zdenek Cervenka" (1971). *Articles by Maurer Faculty*. Paper 1831.

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determination of principalship which are supposed to apply to all crimes are futile, since the prohibited activity with respect to different crimes is determined by different definitions.

A particular objection that could be raised against Roxin's theory is that it is unnecessarily cumbersome to classify a particular crime into one of the three basic categories with possible further subdivision, and only then to select the proper criterion for principalship. This method implies that it will always be possible to classify a crime into one of these categories. Even if this is true—with due allowance for the fact that legislatures continuously create new crimes and do not always consider themselves restricted in this process by criminal law theories—the objection may still be raised that Roxin's theory, however meritorious from a philosophical or a dogmatic viewpoint, is hardly useful as a practical criterion due to its discursiveness. It would have been far more simple to link principalship directly with the crime concerned and to its definition—in other words simply to determine whether the accused fulfilled all the requirements contained in the definition of the crime.

Roxin's work has on occasion been referred to as the "Bible" in the field of criminal participation in Germany. Bearing in mind that participation is one of the most controversial fields in criminal law, and that an overwhelming amount of literature has already been published on almost each and every one of its aspects, the high acclaim given to Roxin's work certainly bears witness to the quality of his contribution. The fact that this book has already been reviewed in ten different journals is significant.

INTERNATIONAL ORGANIZATIONS

THE ORGANIZATION OF AFRICAN UNITY AND ITS CHARTER. By Zdenek Cervenka. New York, Washington: Frederick A. Praeger, 1969. Pp. xii, 253.

*Reviewed by A. A. Fatouros**

The study under review, by a Czechoslovak jurist now at the Scandinavian Institute of African Studies in Uppsala, was first published in Prague in 1968. For its new edition, it has been revised, brought up to date, and expanded to cover the Rhodesian and Nigerian crises. The author writes in a casual, very readable style,

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which enhances the impact of his reasonable and perceptive comments. The book makes up in readability what it occasionally lacks in organization.

After a brief discussion of the attitudes and positions of African states before the 1963 Addis Ababa Conference of African Heads of State, Dr. Cervenka reviews events at the conference: initial fundamental differences, subsequent focus on and consensus about decolonization and the liberation of Africans still under European control, finally, creation of the Organization of African Unity (OAU). Its Charter appeared at the time as the outcome of a trade-off between "radical" and "moderate" states:

The political defeat of the Casablanca States . . . was in a way compensated for by an almost unanimous support for decisive action against colonialism and apartheid This gave the meeting the unmistakable revolutionary stamp associated with the earlier stand of the Casablanca States. (p. 15.)

In view, however, of the limited power that the OAU has to compel any change in the colonial situation of Southern Africa, one may argue that the concessions on the "moderate" side were almost solely verbal and that there was no real compromise.

The legal core of the book is chiefly in its third chapter, where the author undertakes a "political and legal analysis" of the OAU Charter, based not only on its text but on the Organization's practice since 1963, as well. He notes the similarities with, and deliberate repetitions of, several basic provisions of the United Nations Charter; of the seven basic principles of the Organization (Article III of the OAU Charter), only three appear to be peculiar to it: "unreserved condemnation . . . of political assassination" and subversion, "dedication to the total emancipation of . . . African territories," and commitment to non-alignment. In its institutional structure the OAU followed the models of other regional organizations. Dr. Cervenka points out that only as to admission of new members is a simple majority decision binding on all members; on questions of interpretation or for the amendment of the Charter a majority of two-thirds is required, while, on nearly every other issue, no decision of the OAU Assembly is legally binding on member states. Ghana's attempt to strengthen the Organization's power by creation of a "permanent committee" or an "Executive Council" was first delayed and then, after Kwame Nkrumah's overthrow, scuttled. The Secretariat's role was deliberately formulated in very restrictive terms; as a result, its importance depends exclusively on the personality of the incumbent "Administrative Secretary-General." The Specialized Commissions provided for by the Charter appear to have been largely ineffective.

The conclusion cannot be avoided that the Organization as such has little potential for independent initiative. Dr. Cervenka briefly surveys its procedures and actions in the area of peaceful settlement of disputes; it is to be regretted that he did not devote more space and attention to this topic, because, despite a few excellent studies, the OAU's record in this respect is far from adequately known. Under the Addis Ababa Charter, he finds, members undertake a legal obligation to settle disputes by peaceful means (mediation, conciliation, arbitration). The Charter contains no reference to judicial settlement. While critical of this omission, the author explains with sympathy the grounds for the African states' reluctance to refer disputes to the International Court of Justice. His discussion of the relationship between the OAU and the United Nations in the following chapter starts with an equally sensitive summary of the African states' perception of the United Nations, primarily as an instrument for fighting colonialism and racial discrimination and as a channel of economic aid (pp. 103-08). The more traditional discourse that follows, on the status of the OAU as a "regional organization" under the UN Charter, is interesting but somewhat inconclusive, perhaps because the precise legal consequences of such a relationship are never made very clear.

Over one-fourth of the book is devoted to the study of the three major African crises of the decade. The inclusion of the South West Africa case before the International Court of Justice is, however, of questionable wisdom. Granting its importance for the African nations, its connection with the OAU as an institution is tenuous and the relatively short space assigned to it (pp. 115-38) does not permit more than a summary of history and issues. The Rhodesian and Nigerian crises, on the other hand, did involve the OAU in significant, and significantly differing, manners. Unfortunately, in both cases the Organization failed to achieve its aims and even, on occasion, to formulate them in a sufficiently clear and definite manner. In the Rhodesian case, as Dr. Cervenka points out, the OAU overreacted (or at least overestimated its own strength), engaging in futile advocacy of the use of force and imprudent threats of diplomatic sanctions against Britain. In the Nigerian case, the Organization's inability to act effectively appears even more ominous, for this was almost exclusively an African problem, a problem which non-African powers would have been prepared to leave to Africans to resolve. The OAU did try to help of course; the book contains an excellent summary of successive OAU meetings and talks between the belligerents directly or indirectly sponsored by the OAU. Still, secession was too sensitive an issue for most African states and their involvement and concern made them unwilling to intervene, collectively or individually, forcefully enough to stop

the carnage.

Analysis of such crises is a task where legal considerations inextricably combine with political ones. It is, of course, exceedingly difficult successfully to integrate legal and political analysis; legal analysis may be sterile when divorced from the political context, but it can also be distorted through too much emphasis on concrete issues and particular situations. In the main, Dr. Cervenka navigates successfully among the shoals of the task he has undertaken, although, naturally, readers and critics will sometimes regret some of his omissions or disagree with his inclusions.

For the author, continental unity was the central problem of the sixties in Africa. Politically as well as emotionally, the movement in this direction has been strong any time it could focus on a recognizable and reasonably concrete common enemy: the French during the Algerian conflict, the South African and Portuguese governments since the early sixties. Yet, even in such areas of common concern, there is no unanimity in action among African nations, as the history of the OAU "Liberation Committee" makes evident. The actual degree of concern varies, for reasons which are geographical and economic as much as political and ideological. For some African leaders, decolonization is of the highest priority; others are merely willing to help, as long as it is not too costly or too difficult. A small number of leaders, more because of their perception of present realities and feasible national goals than from any moral failure or ideological inclination, are willing to cooperate with South Africa, Portugal, and Rhodesia.

While sympathetic to earlier efforts by the more "radical" African states, Dr. Cervenka admits the current decline of the movement for unity. There is little doubt that the obvious desire for "leadership," seen by many as a drive for domination, of such defenders of unity as Dr. Kwame Nkrumah, did not commend the cause to other African governments. On this point, Dr. Cervenka retains a certain ambivalence; he still appears attracted to the Osagyefo's arguments.

Yet though [Nkrumah's] posturings concerning the role of Africa in world affairs and African unity were unrealistic, he had a profound effect on the continent, which in many ways will be permanent So assiduously did he propagate [the cause of African unity] that no African leader today would dare to express indifference to it. (p. 227.)

Mandatory lip service, however, may be in the long run more destructive of the case of unity than candid open denial and debate. The cogency of the economic and political arguments in favor of continental unification cannot be denied. Nonetheless, the move-

ment runs counter to powerful historical realities: the temper of the times which, however irrationally, favors small political units, the vested interests of the ruling elites of independent African states, the profound differences in interests and in political ideologies and goals between African governments. As a result, African nations find it difficult even to cooperate effectively in political matters, to act as a bloc in defense of regional interests. The OAU's current efforts to move in the direction of functional cooperation may provide the basis for a slower but more effective process of regional integration.

In the last analysis, as Dr. Cervenka observes, the African nations have established in the OAU the institution they wanted. Its failings are direct results of its structure and, even more, of the continuing unwillingness of African governments to make it something more than a convenient discussion forum. Condemnation is surely inappropriate—no other group of nations has done better, in as short a time. Despite their own rhetoric and the hopeful expectations of their friends, the African states are showing themselves, in this as in other respects, to be little better, but certainly no worse, than their European and American counterparts. "The success of the OAU," concludes wisely the book under review, "and its future development will finally depend on the degree to which both the governments and the peoples of Africa understand its workings, and on the degree to which practical day-to-day experience teaches them the benefits of unity." (p. 230.)